

Federal Communications Commission

Docket No. 93-75 Exhibit No. IGF 238

Presented by Emmas

Disposition	{	Identified	<u>12.2.93</u>
		Received	<u>12.2.93</u>
		Rejected	

Reporter W. W. W.

Date 12.2.93



MEMORANDUM

TO: Robert Shaffner

FROM: Lee Sandifer

DATE: October 22, 1991

SUBJECT: Summary of LPTV Activities - Raystay

1. Construction permits - Raystay holds five FCC construction permits for LPTV properties. These permits were granted July 24, 1990 and expire eighteen months thereafter. The permits locations and call letters are as follows:

City	Calls
Lancaster, PA	W23AW
Lancaster, PA	W31AX
Lebanon, PA	W38BE
Lebanon, PA	W55BP
Red Lion, PA	W56CJ

Permit information on the service area to be covered by these stations are attached.

2. W40AF/TV40 - W40AF, doing business as TV40, began operations in December, 1989 and transmits from a location near Dillsburg, PA. The station provides Channel America satellite programming and a variety of locally or regionally produced entertainment, travel, sports/racing, public affairs, and news programming. The service area for W40AF off-air broadcast is attached and the station is carried on three cable systems serving over 15,000 subscribers.

The station had been primarily managed with a production slant until early this year when marketing emphasis was increased and a full-time sales staff was hired. The station presently has a staff of five, full-time equivalent production-related employees and two sales employees. Management, technical, and accounting support is provided from Raystay and related companies.

The station's production facilities are housed at 1310 Holly Pike, Carlisle, adjacent to the TV Cable headend. Satellite programming is received by TV Cable and commercial insertion activities occur prior to microwave transmission of the programming to the White Rock Acres tower site for off-air transmission.

Federal Communications Commission

Docket No. 93-75 Exhibit No. BF 239

Presented by Examiner

Opinion	{	Identified	<u>12.2.93</u>
		Received	<u>12.2.93</u>
		Rejected	

Operator W. J. W. W.  
Date 12.2.93



Dennis Grolman  
1902 Woodland RD  
York PA 17403

TEL. 717 846-6527  
FAX. 717 848-2014

Raystay Company  
George F. Gardner  
Carlisle PA

RE: Purchase of LPTV License

Dear Sir,

After scrutinizing the current LPTV Construction Permit Listing, I noticed your company has acquired a number of these sites in South Central PA.

Considering the multitude of your acquisition, I was wondering whether one or more of your sites were for sale with a guarantee of transfer from its original location.

I am looking forward to hearing from you soon.

Sincerely,



Dennis Grolman

4/4 Called and left message (home #)

75586

Federal Communications Commission

Docket No. 93-75 Exhibit No. TFE 240

Presented by Emmons

Disposition	{	Identified	<u>12-2-93</u>
		Received	<u>12-2-93</u>
		Rejected	<u>          </u>

Reporter C. W. Dwyer

Date 12-2-93





# Arent Fox Kintner Plotkin & Kahn

COPY

David Tillotson  
202/857-6027

January 13, 1992

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Ms. Searcy:

Submitted herewith, in triplicate, is an application on FCC Form 345 for consent to an assignment of the construction permit for Low Power Television Station W23AY from Raystay Co. to Grosat Communications, Inc.

Attached to this letter is a \$80.00 check payable to the FCC to cover the filing fee for this application.

If you have any questions concerning the assignor's portion of this application, please direct them to David A. Gardner, Raystay Co., P.O. Box 38, Carlisle, Pennsylvania 17013 (Tel.: 717/245-0040).

If you have any questions concerning the assignee's portion of this application, please call me.

Sincerely,



David Tillotson

1050 Connecticut Avenue, NW  
Washington, DC 20036-5339

Enclosure

Telephone: 202/857-6000  
Cable: ARFOX  
Telex: WU 892672  
ITT 440266  
Facsimile: 202/857-6395

7475 Wisconsin Avenue  
Bethesda, Maryland 20814-3413

8000 Towers Crescent Drive  
Vienna, Virginia 22182-2733

Federal Communications Commission

Docket No. 93-78 Exhibit No. 14 F 241

Presented by Emmons

Disposition	{	Identified	<u>12.2.93</u>
		Received	<u>12.2.93</u>
		Rejected	

Repr. att. A. W. Edwards

Date 12.2.93

For Commission Use Only  
File No.

APPLICATION FOR TRANSFER OF CONTROL OF A CORPORATE LICENSEE OR PERMITTEE, OR ASSIGNMENT OF LICENSE OR PERMIT,  
FOR AN FM OR TV TRANSLATOR STATION, OR A LOW POWER TELEVISION STATION  
(Carefully read instructions before filling out Form — RETURN ONLY FORM TO FCC)

Section 1 Assignor/Transferor

1. Application for: (check only one box for A. and B.)

A. ☒ Consent to assignment

☐ Consent to transfer of control

B. For a ☐ TV translator

☒ Low power TV station

☐ FM translator

2. Name of Assignor/Transferor

Raystay Co.

Street Address (or other identification)

P.O. BOX 33

Telephone No.  
(Include Area Code)

City

State

ZIP Code

CARLISLE PA 17013

3. Authorization which is proposed to be assigned or transferred:

(a) Call letters

W23AY

(b) Location

York, PA

4. NOTE: Where the licenses or permits have been granted to entities claiming preferences in the lottery selection process, the license or permit must ordinarily be held for a period of at least one year from the beginning of program tests.

Is the assignor or transferor in compliance with this requirement?

☐ YES ☒ NO

If No, attach as Exhibit No. DNA an appropriate showing. (See Section 73.3597 of the Commission's Rules)

But see attached declaration of "David A. Gardner".

5. Call letters of any auxiliary stations which are to be assigned:

NONE.

6. Attach as Exhibit No. A a copy of the contract or agreement to assign the property and facilities of the station. If there is only an oral agreement, reduce the terms to writing and attach. The material submitted must include the complete agreement between the parties.

7. State in the attached Exhibit No. B whether the assignor, or any partner, officer, director, member of the assignor's governing board or any stockholder owning 10% or more of the assignor's stock has had any interest in or connection with any dismissed and/or denied application or any FCC license that has been revoked.

The Exhibit should include the following information:

- (a) name of party with such interest;
- (b) nature of interest or connection, giving dates;
- (c) call letters or file number of application; or docket number;
- (d) location

8. Since the filing of the assignor's/transferor's last renewal application for the authorization being assigned or transferred, or other major application has an adverse finding been made, a consent decree been entered or adverse final action been approved by any court or administrative body with respect to the assignor/transferor or any partner, officer, director, member of the assignor's governing board or any stockholder owning 10% or more of assignor's/transferor's stock, concerning any civil or criminal suit, action or proceeding brought under the provisions of any federal, state, territorial or local law relating to the following: any felony, lotteries; unlawful restraints or monopolies; unlawful combinations, contracts or agreements in restraint of trade; the use of unfair methods of competition, fraud; unfair labor practices; or discrimination?

☐ YES ☒ NO

If Yes, attach as Exhibit No. DNA a full description, including identification of the court or administrative body, proceeding by file number, the person and matters involved, and the disposition or current status of the matter.

#### CERTIFICATION

Has or will the assignor/transferor comply with the public notice requirement of Section 73.3580 of the rules?

☒ YES ☐ NO

The ASSIGNOR/TRANSFEROR acknowledges that all its statements made in this application and attached exhibits are considered material representations, and that all of its exhibits are a material part hereof and are incorporated herein.

The ASSIGNOR/TRANSFEROR represents that this application is not filed by it for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with Section 1.65 of the Commission's Rules, the ASSIGNOR/TRANSFEROR has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in the information furnished.

#### WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT U.S. CODE, TITLE 18, SECTION 1001

I certify that the assignor's/transferor's statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this 28 <sup>January</sup>~~6~~ day of December~~December~~, 19 92~~91~~

Raystay Co.

Name of Assignor/Transferor

Lee H. Ardison

Signature

Vice President

Title

## Section II

## Assignee/Transferee

## 1. Name of Assignee/Transferee

## Street Address (or other identification)

Grosat Broadcasting, Inc.

1 9 0 2 (W) O O D L A N D R O A D

Telephone No  
(Include Area Code)

(717) 846-6527

City

State

ZIP Code

Y I O R K I P A

1 7 4 0 3

## 2. Assignee/Transferee is: (check one of the following)

☐ an individual☐ a general partnership☐ a limited partnership☒ a corporation☐ other (explain)3. If the applicant is an unincorporated association or a legal entity other than an individual, partnership or corporation, describe in attached Exhibit No. DNA the nature of the applicant.

## 4. (a) Is the applicant in compliance with the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments?

☒ YES ☐ NO

## (b) Will any funds, credit, or other consideration for construction, purchase or operation of the station be provided by aliens, foreign entities, domestic entities controlled by aliens, or their agents?

☐ YES ☒ NOIf Yes, provide particulars as attached Exhibit No. DNA

## 5. (a) Has an adverse finding been made, adverse final action taken or consent decree approved by any court or administrative body as to the applicant or any party to the application in any civil or criminal proceeding brought under the provisions of any law related to the following: any felony; lotteries, unlawful restraints or monopolies; unlawful combinations, contracts or agreements in restraint of trade; the use of unfair methods of competition; fraud; unfair labor practices; or discrimination? (See instruction 9 for the definition of a "party" to this application.)

☐ YES ☒ NO(b) Is there now pending in any court or administrative body any proceeding involving any of the matters referred to in 5.(a)? ☐ YES ☒ NOIf the answer to (a) or (b) above is Yes, attach as Exhibit No. DNA a full disclosure concerning the persons and matters involved, identifying the court or administrative body and the proceeding (by dates and file numbers), stating the facts upon which the proceeding was based or the nature of the offense committed, and disposition or current status of the matter.

## 6. The applicant certifies that sufficient net liquid assets are on hand or available from committed sources to consummate the transaction and operate the facilities for three months.

☒ YES ☐ NO

## 7. The applicant certifies that:

(a) it has a reasonable assurance of present commitments from each donor, from each party agreeing to furnish capital, from each bank, financial institution or others agreeing to lend funds, and from each equipment supplier agreeing to extend credit;

(b) it has determined that a reasonable assurance exists that all such sources (excluding banks, financial institutions and equipment suppliers) have sufficient net liquid assets to meet these commitments; and

(c) it can and will meet all contractual requirements as to collateral, guarantees, and capital investment or donations.

☒ YES ☐ NO

## FOR LOW POWER TELEVISION APPLICANTS ONLY

8. Low power television stations must offer a broadcast program service (a nonprogram service is not permitted). Attach as Exhibit No. C a brief description, in narrative form, of the proposed program service.

9. Does the low power television applicant propose to employ five or more full time employees? ☐ YES ☒ NO

If the answer is Yes, the applicant must include an EEO program called for in the separate Five Point Model EEO Program (attached).

## CERTIFICATION

THE ASSIGNEE/TRANSFEREE hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The ASSIGNEE/TRANSFEREE acknowledges that all its statements made in this application and attached exhibits are considered material representations, and that all of its exhibits are a material part hereof and are incorporated herein.

The ASSIGNEE/TRANSFEREE represents that this application is not filed by it for the purpose of impeding, obstructing or delaying determination on any other application with which it may be in conflict.

In accordance with Section 1.65 of the Commission's Rules, the ASSIGNEE/TRANSFEREE has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in the information furnished.

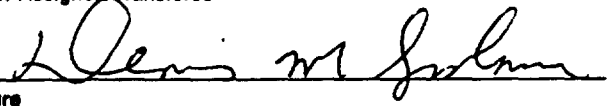
WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT  
U.S. CODE, TITLE 18, SECTION 1001

I certify that the assignee's/transferee's statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Signed and dated this 22 day of DECEMBER, 1991

Grosat Broadcasting, Inc.

Name of Assignee/Transferee



Signature

President

Title

## **EXHIBIT A**

## AGREEMENT

This Agreement is entered into this 6th day of January, 1992, by and between RAYSTAY CO., a corporation with its principal offices in Carlisle, Pennsylvania ("Seller"), and GROSAT BROADCASTING, INC., a corporation with its principal offices in York, Pennsylvania ("Buyer").

WHEREAS, Seller holds a construction permit (BPTTL-890309NX, as modified by BMPTTL-910503GZ) ("CP") issued by the Federal Communications Commission ("FCC") for low power television station W23AY, York, Pennsylvania ("W23AY" or the "Station").

WHEREAS, Buyer desires and agrees to acquire the CP for the Station, and Seller desires and agrees to assign the CP to Buyer on the terms herein.

WHEREAS, the prior written consent of the FCC must be requested, and obtained, before the CP may be assigned to Buyer.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and for other good and valuable consideration, the parties agree as follows:

1. Seller agrees to assign and transfer the CP to Buyer, subject to the FCC granting its consent to such assignment, in consideration of Buyer paying Seller the cash sum of Ten Thousand (\$10,000.00) (the "Purchase Price"). The parties recognize that the amount that Buyer may lawfully pay to Seller in consideration of the assignment of the CP may not exceed the amount that the FCC approves as representing reimbursement of Seller's legitimate and prudent expenses incurred in acquiring the CP. Accordingly, in the event the FCC determines that the maximum amount that Buyer may pay to Seller in consideration of the assignment of the CP is less than the Purchase Price specified herein, Seller shall notify Buyer within ten (10) days of the issuance of a ruling by the FCC specifying an amount less than the Purchase Price as the maximum amount that Buyer may lawfully pay to Seller in consideration of the assignment of the CP as to whether it will accept such lesser amount (the "Adjusted Purchase Price") as full payment for assignment of the CP. If Seller notifies Buyer that it will accept the Adjusted Purchase Price, the transaction contemplated herein will be closed, with Buyer paying Seller the Adjusted Purchase Price. If Seller notifies Buyer that it will not accept the Adjusted Purchase Price, this agreement will terminate and the parties shall have no further obligation or liability hereunder.

2. The parties acknowledge that the CP cannot be assigned from Seller to Buyer without the prior consent of the FCC. Buyer and Seller agree to join and cooperate in preparing an application to the FCC for consent to such assignment. Each



party will be responsible for preparing its own section of the application at its own expense. The application will be submitted to the FCC within ten (10) days after the date of this Agreement.

3. Both parties shall prosecute the assignment application in good faith, including promptly providing any additional information which the FCC requests or requires; and neither party shall knowingly take any action or fail to take any action that would jeopardize FCC approval of the assignment except pursuant to its right of termination under this Agreement. This Paragraph shall not be construed as requiring either party to take any action, or incur any expense, to respond to any challenge to the assignment application which may be filed by any private party; provided, however, that if Buyer elects to respond to any such challenge, Seller will fully cooperate with Buyer in making such response at Buyer's sole expense.

4. If the FCC designates the assignment or any other application pertaining to the Station for hearing at any time for any reason, or if the FCC has not granted the assignment application within one (1) year after it is filed, or if the grant of the application has not become final in the sense that it is no longer subject to administrative or judicial review within eighteen (18) months after it is filed, then either party may dismiss the application without liability to the other. Effective upon such dismissal, the obligations to acquire and assign the CP shall cease.

5. Seller warrants to Buyer that the CP is valid and in full force and effect as of the date of this Agreement and will be valid and in full force and effect on the Closing Date, that the CP currently expires on April 23, 1993 and that the document attached hereto as Exhibit 1 is a true and correct copy of the CP. In addition, if the CP lapses or becomes void at anytime for any reason prior to the Closing, Buyer shall have the right to terminate this Agreement, but without prejudice to any right it may have against Seller if the loss of the CP is due to Seller's breach of this Agreement.

6. Buyer warrants to Seller that he knows of no reason why the FCC will not find him qualified to hold a construction permit or license for a low power television station.

7. Closing on the assignment shall be held within ten (10) days after an FCC action granting the assignment application has become final in the sense referred to in Paragraph 5 hereof, or at such earlier date following FCC action granting the assignment application that the parties might mutually agree upon. Closing shall be held at a time and place mutually agreeable to the parties, and in the absence of agreement, at the offices of

Arent, Fox, Kintner, Plotkin & Kahn at 10:00 a.m. on the fifth (5th) business day after an FCC action granting the assignment application has become final.

8. At the Closing:

a. Seller shall assign and convey to Buyer, and shall execute any documents required to do so: the FCC CP for the Station, any other governmental authorizations associated with the Station, any and all rights it has to the call sign W23AY.

b. Buyer shall pay Seller the Purchase Price, or Adjusted Purchase Price, if applicable, by certified or cashier's check or wire transfer.

9. In the event either party breaches its obligations hereunder and, as a result of such breach, the transaction provided for herein is not consummated, if the other party is not also in material breach of its obligations hereunder, the breaching party shall pay the other party the sum of \$1,000 as liquidated damages to compensate the other party for any loss or damages that it might have suffered as a consequence of the breach. The parties acknowledge the unique value of W23AY and agree that, consequently, as an alternative to recovering liquidated damages from Seller in the event of a breach of this Agreement by Seller, Buyer shall have the right to seek an order of specific performance from a court of competent jurisdiction to compel Seller's performance under this Agreement.

10. In the event of a lawsuit by either party to enforce its rights against the other under this Agreement, the prevailing party shall be entitled to payment of its reasonable attorneys' fees by the losing party.

11. Compliance by Seller with Paragraph 8(a) above shall be a condition precedent to Buyer's obligation to proceed at the Closing. Compliance with Paragraph 8(b) above shall be a condition precedent to Seller's obligation to proceed at the Closing.

12. Prior to the Closing, control of the Station shall be the sole right and responsibility of Seller. After the Closing, control and operation of the Station shall be the sole right and responsibility of the Buyer.

13. Any notices under this Agreement shall be effective if given by first class or more rapid class of United States mail, postage prepaid, and evidenced by a postal delivery receipt (certified mail or otherwise) addressed as follows:

P.O. Box 38  
Carlisle, PA 17013

Attn: Lee Sandifer

If to Buyer: Dennis Grolman  
1902 Woodland Road  
York, PA 17403

With Copy to: Peter Tannenwald, Esq.  
Arent, Fox, Kintner, Plotkin & Kahn  
1050 Connecticut Avenue, N. W.  
Washington, DC 20036-5339

or to such other address as either party may specify from time to time. Notice shall be effective three (3) days after mailing.

14. This Agreement represents the entire agreement and understanding of the parties with respect to the subject matter hereof, supersedes any prior written or oral agreements or understandings, and may be amended only in writing executed by the party against which enforcement is sought.

15. This Agreement may be executed in one or more counterparts, each of which shall constitute an original with full force and effect and all of which shall constitute one and the same Agreement.

16. This Agreement shall be construed to be consistent with the Rules, Regulations, policies, and orders of the FCC. Except where governed by federal law, this Agreement shall be construed in accordance with the laws of the State of Pennsylvania applicable to transactions conducted entirely within that state.

17. The individual executing this Agreement on behalf of Seller warrants that he (she) is duly authorized to represent and to bind Seller and that Seller has taken all necessary corporate action required to make this Agreement legally binding on it. Buyer warrants that he knows of no reason why, upon executing this Agreement, he is not legally bound by it.

IN WITNESS WHEREOF, the parties hereby execute this Agreement as of the date hereinabove first written.

RAYSTAY CO.

GROSAT BROADCASTING, INC.

By:

  
~~XXXXXXXXXX~~ Vice President

By: \_\_\_\_\_

P.O. Box 38  
Carlisle, PA 17013

Attn: Lee Sandifer

If to Buyer: Dennis Grolman  
1902 Woodland Road  
York, PA 17403

With Copy to: Peter Tannenwald, Esq.  
Arent, Fox, Kintner, Plotkin & Kahn  
1050 Connecticut Avenue, N. W.  
Washington, DC 20036-5339

or to such other address as either party may specify from time to time. Notice shall be effective three (3) days after mailing.

14. This Agreement represents the entire agreement and understanding of the parties with respect to the subject matter hereof, supersedes any prior written or oral agreements or understandings, and may be amended only in writing executed by the party against which enforcement is sought.

15. This Agreement may be executed in one or more counterparts, each of which shall constitute an original with full force and effect and all of which shall constitute one and the same Agreement.

16. This Agreement shall be construed to be consistent with the Rules, Regulations, policies, and orders of the FCC. Except where governed by federal law, this Agreement shall be construed in accordance with the laws of the State of Pennsylvania applicable to transactions conducted entirely within that state.

17. The individual executing this Agreement on behalf of Seller warrants that he (she) is duly authorized to represent and to bind Seller and that Seller has taken all necessary corporate action required to make this Agreement legally binding on it. Buyer warrants that he knows of no reason why, upon executing this Agreement, he is not legally bound by it.

IN WITNESS WHEREOF, the parties hereby execute this Agreement as of the date hereinabove first written.

RAYSTAY CO.

GROSAT BROADCASTING, INC.

By: \_\_\_\_\_

By: Dennis M. Grolman  
President.

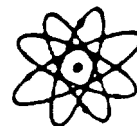
## EXHIBIT B

George F. Gardner was the sole stockholder of Adwave Company, an applicant for a construction permit for a new FM broadcast station on Channel 290 at Fort Lauderdale, FL (File No. BPH-830510AL). In RKO General, Inc., 4 FCC Rcd 4679, 66 RR 2d 1162 (Rev. Bd. 1989), the Review Board, with Board Member Blumenthal dissenting, disqualified Adwave because it resolved a misrepresentation/lack of candor issue involving a divestiture commitment by George F. Gardner, Adwave's sole stockholder, adversely to Adwave. In RKO General, Inc. (WAXY-FM), 5 FCC Rcd 642, 67 RR 2d 508 (1990), the Commission approved a settlement agreement dismissing Adwave's application. The Commission ruled that George Gardner could submit a specific showing of good character in support of future applications he might file with the Commission. In connection with the application that led to the issuance of this construction permit, Raystay made such a showing, which the Commission accepted. See letter dated July 23, 1990 to George F. Gardner from Roy J. Stewart, Chief of the Mass Media Bureau.

George F. Gardner was a limited partner in Los Angeles Television, a Limited Partnership (LATV). LATV was an applicant for a construction permit for a new commercial television station seeking the facilities of KHJ-TV, Los Angeles, California. In RKO General, Inc., 3 FCC Rcd 5057, 65 RR 2d 192 (1988), the Commission dismissed LATV's application as unacceptable for filing. A second application for the same facilities (File No. BPCT-881028KG) was

dismissed by the Commission in RKO General, Inc. (KHJ-TV, 4 FCC Rcd 1304, 65 RR 2d 1548 (1989). LATV appealed the Commission's actions to the U.S. Court of Appeals. LATV then dismissed its appeal pursuant to a settlement agreement approved by the Commission.

# RAYSTAY CO.



P. O. BOX 38

CARLISLE, PA 17013

(717) 245-0040

*BROADBAND COMMUNICATIONS - CATV*

## CERTIFICATION OF EXPENSES

I, David A. Gardner, hereby certify that I am in management at Raystay Co. and am familiar with the expenses incurred by Raystay in obtaining the construction permit being assigned, which expenses are:

Cohen and Berfield, P.C.	
Legal Fees	\$ 7,698.00
Robert Hoover	
Engineering Fees	2,425.00
FCC Filing Fees	<u>375.00</u>
	\$10,498.00

Date: Jan 6 1992

David A. Gardner  
David A. Gardner

## EXHIBIT C

The assignee plans to provide a television broadcast service which will consist predominantly of programming that is locally produced, but which be supplemented with programming obtained from satellite sources. The assignee anticipates that in excess of 70% of the station's programming will be locally originated.